
Local Government Committee

ESSB 5907

Brief Description: Affirming that cities and counties planning under chapter 36.70A RCW retain the ability to accommodate state projected population growth within urban growth areas without requiring a minimum residential density.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Haugen, Kastama, McCaslin and Rasmussen).

Brief Summary of Engrossed Substitute Bill

- Grants qualifying rural counties and the cities within those counties that are planning under the Growth Management Act discretion to make choices about appropriate urban residential densities within urban growth areas (UGAs).
- Specifies that these qualifying rural counties and cities must not be required to establish a uniform minimum residential density that is applicable to each property within a UGA.
- Provides that a qualifying rural county is a county with a population density of less than 100 persons per square mile or a county smaller than 225 square miles.

Hearing Date: Hearing cancelled.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act

Enacted in 1990 and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

Planning jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Planning jurisdictions also must adopt development regulations that are consistent with and implement the comprehensive plan.

Urban Growth Areas

The GMA includes numerous requirements relating to the use or development of land in urban and rural areas. Among other planning requirements, counties that comply with the major

requirements of the GMA (planning counties) must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature.

The GMA includes many requirements pertaining to UGAs that counties and cities must satisfy. Using population projections made by the Office of Financial Management (OFM), planning counties and each city within these counties must include within UGAs areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding 20-year period. UGAs must permit urban densities and include greenbelts and open space areas. UGA determinations may include a reasonable land market supply factor and must permit a range of urban densities and uses. Additionally, a UGA provision grants cities and counties comprehensive plan discretion to make many choices about accommodating growth.

Residential Density - Definition and Board Decisions

Although the GMA includes provisions pertaining to density and the reduction of sprawling low-density development, neither "density" nor "residential density" is defined in the act. The Department of Community, Trade, and Economic Development, the state agency responsible for providing technical and other assistance to jurisdictions implementing the GMA, defined "residential density" in its September 2004, guidance paper, *Urban Densities - Central Puget Sound Edition*, as, in part, the number of dwelling units over a specified land area.

The GMA does not prescribe a uniform minimum residential density, nor does the act require jurisdictions to establish uniform minimum residential densities. Growth Management Hearings Boards, the quasi-judicial bodies established to, in part, hear petitions alleging noncompliance with the GMA, have, however, issued decisions pertaining to residential densities. The Central Puget Sound Growth Management Hearings Board (CPSGMHB), for example, provided in its 1995 decision from *Bremerton, et al., v. Kitsap County*, that:

...[R]ather than adopt a maximum urban lot size, the Board instead adopts as a general rule a 'bright line' at four net dwelling units per acre. Any residential pattern at that density, or higher, is clearly compact urban development and satisfies the low end of the range required by the [GMA]. Any larger urban lots will be subject to increased scrutiny by the Board to determine if the number, locations, configurations and rationale for such lot sizes complies with the goals and requirements of the [GMA]...Any new residential land use pattern within a UGA that is less dense is not a compact urban development pattern, constitutes urban sprawl, and is prohibited. There are exceptions to this general rule...However, this circumstance can be expected to be infrequent within the UGA and must not constitute a pattern over large areas.

The jurisdiction of the CPSGMHB, one of three boards established by the GMA, includes King, Pierce, Snohomish, and Kitsap counties.

Defining Rural Counties

The term "rural county" is not defined in the GMA, but is defined under excise tax law. For the purposes of specific sales and use tax provisions, a rural county is a county with a population density of fewer than 100 persons per square mile or a county smaller than 225 square miles as determined annually by the OFM.

Summary of Bill:

Qualifying rural counties and the cities within these counties that are planning under the Growth Management Act are expressly granted discretion to make choices about appropriate urban residential densities within urban growth areas (UGAs), as long as an overall pattern of urban density is established with UGAs. These rural counties and cities must not be required to establish a uniform minimum residential density that is applicable to each and every property within a UGA. A qualifying rural county is determined as such using a statutory excise tax provision specifying that a rural county is a county with a population density of less than 100 persons per square mile or a county smaller than 225 square miles, pursuant to legal requirements.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.